

SECOND REGULAR SESSION

# SENATE BILL NO. 788

100TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR SCHUPP.

Pre-filed December 16, 2019, and ordered printed.

ADRIANE D. CROUSE, Secretary.

3268S.02I

## AN ACT

To repeal section 208.151, RSMo, and to enact in lieu thereof two new sections relating to providing screening and treatment for certain mothers in the postpartum depression care act.

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Section 208.151, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 191.940 and 208.151, to read as follows:

**191.940. 1. This section shall be known and may be cited as the "Postpartum Depression Care Act".**

**2. As used in this section, the following terms shall mean:**

**(1) "Ambulatory surgical center", the same meaning as defined in section 197.200;**

**(2) "Health care provider", a physician licensed under chapter 334, an assistant physician or physician assistant licensed under chapter 334 and in a collaborative practice arrangement with a collaborating physician, and an advanced practice registered nurse licensed under chapter 335 and in a collaborative practice arrangement with a collaborating physician;**

**(3) "Hospital", the same meaning as defined in section 197.020;**

**(4) "Postnatal care", an office visit to a licensed health care provider occurring after pregnancy for the infant or birth mother;**

**(5) "Questionnaire", an assessment tool designed to detect the symptoms of postpartum depression or related mental health disorders, such as the Edinburgh Postnatal Depression Scale, the Postpartum**

**EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

18 Depression Screening Scale, the Beck Depression Inventory, the Patient  
19 Health Questionnaire, or other validated assessment methods.

20       3. All hospitals and ambulatory surgical centers that provide  
21 labor and delivery services shall, prior to discharge following  
22 pregnancy, provide pregnant women and, if possible, fathers and other  
23 family members with complete information about postpartum  
24 depression, including its symptoms, methods of treatment, and  
25 available resources. The department of health and senior services, in  
26 cooperation with the department of mental health, shall provide  
27 written information that hospitals and ambulatory surgical centers may  
28 use and shall include such information on its website.

29       4. Health care providers providing postnatal care to women until  
30 six months following the pregnancy shall invite the woman to complete  
31 a questionnaire and shall review the completed questionnaire in  
32 accordance with the formal opinions and recommendations of the  
33 American College of Obstetricians and Gynecologists.

34       5. Health care providers providing pediatric care to an infant  
35 shall invite the infant's birth mother to complete a questionnaire at any  
36 well-baby checkup at which the birth mother is present, beginning at  
37 the infant's one-month checkup until the infant is six months old, and  
38 shall review the completed questionnaire in accordance with the formal  
39 opinions and recommendations of the American College of  
40 Obstetricians and Gynecologists, in order to ensure that the health and  
41 well-being of the infant are not compromised by undiagnosed  
42 postpartum depression or related mental health disorders in the birth  
43 mother. With the birth mother's consent, the health care provider shall  
44 share the results of the questionnaire with the birth mother's primary  
45 health care provider or mental health care provider of her choice. If  
46 the health care provider determines that the birth mother presents an  
47 acute danger to herself, the infant, or someone else, the birth mother's  
48 consent shall not be required prior to sharing the results.

208.151. 1. Medical assistance on behalf of needy persons shall be known  
2 as "MO HealthNet". For the purpose of paying MO HealthNet benefits and to  
3 comply with Title XIX, Public Law 89-97, 1965 amendments to the federal Social  
4 Security Act (42 U.S.C. Section 301, et seq.) as amended, the following needy  
5 persons shall be eligible to receive MO HealthNet benefits to the extent and in  
6 the manner hereinafter provided:

7 (1) All participants receiving state supplemental payments for the aged,  
8 blind and disabled;

9 (2) All participants receiving aid to families with dependent children  
10 benefits, including all persons under nineteen years of age who would be  
11 classified as dependent children except for the requirements of subdivision (1) of  
12 subsection 1 of section 208.040. Participants eligible under this subdivision who  
13 are participating in treatment court, as defined in section 478.001, shall have  
14 their eligibility automatically extended sixty days from the time their dependent  
15 child is removed from the custody of the participant, subject to approval of the  
16 Centers for Medicare and Medicaid Services;

17 (3) All participants receiving blind pension benefits;

18 (4) All persons who would be determined to be eligible for old age  
19 assistance benefits, permanent and total disability benefits, or aid to the blind  
20 benefits under the eligibility standards in effect December 31, 1973, or less  
21 restrictive standards as established by rule of the family support division, who  
22 are sixty-five years of age or over and are patients in state institutions for mental  
23 diseases or tuberculosis;

24 (5) All persons under the age of twenty-one years who would be eligible  
25 for aid to families with dependent children except for the requirements of  
26 subdivision (2) of subsection 1 of section 208.040, and who are residing in an  
27 intermediate care facility, or receiving active treatment as inpatients in  
28 psychiatric facilities or programs, as defined in 42 U.S.C. Section 1396d, as  
29 amended;

30 (6) All persons under the age of twenty-one years who would be eligible  
31 for aid to families with dependent children benefits except for the requirement of  
32 deprivation of parental support as provided for in subdivision (2) of subsection 1  
33 of section 208.040;

34 (7) All persons eligible to receive nursing care benefits;

35 (8) All participants receiving family foster home or nonprofit private  
36 child-care institution care, subsidized adoption benefits and parental school care  
37 wherein state funds are used as partial or full payment for such care;

38 (9) All persons who were participants receiving old age assistance  
39 benefits, aid to the permanently and totally disabled, or aid to the blind benefits  
40 on December 31, 1973, and who continue to meet the eligibility requirements,  
41 except income, for these assistance categories, but who are no longer receiving  
42 such benefits because of the implementation of Title XVI of the federal Social

43 Security Act, as amended;

44 (10) Pregnant women who meet the requirements for aid to families with  
45 dependent children, except for the existence of a dependent child in the home;

46 (11) Pregnant women who meet the requirements for aid to families with  
47 dependent children, except for the existence of a dependent child who is deprived  
48 of parental support as provided for in subdivision (2) of subsection 1 of section  
49 208.040;

50 (12) Pregnant women or infants under one year of age, or both, whose  
51 family income does not exceed an income eligibility standard equal to one  
52 hundred eighty-five percent of the federal poverty level as established and  
53 amended by the federal Department of Health and Human Services, or its  
54 successor agency;

55 (13) Children who have attained one year of age but have not attained six  
56 years of age who are eligible for medical assistance under 6401 of P.L. 101-239  
57 (Omnibus Budget Reconciliation Act of 1989) **(42 U.S.C. Sections 1396a to**  
58 **1396b)**. The family support division shall use an income eligibility standard  
59 equal to one hundred thirty-three percent of the federal poverty level established  
60 by the Department of Health and Human Services, or its successor agency;

61 (14) Children who have attained six years of age but have not attained  
62 nineteen years of age. For children who have attained six years of age but have  
63 not attained nineteen years of age, the family support division shall use an  
64 income assessment methodology which provides for eligibility when family income  
65 is equal to or less than equal to one hundred percent of the federal poverty level  
66 established by the Department of Health and Human Services, or its successor  
67 agency. As necessary to provide MO HealthNet coverage under this subdivision,  
68 the department of social services may revise the state MO HealthNet plan to  
69 extend coverage under 42 U.S.C. Section 1396a(a)(10)(A)(i)(III) to children who  
70 have attained six years of age but have not attained nineteen years of age as  
71 permitted by paragraph (2) of subsection (n) of 42 U.S.C. Section 1396d using a  
72 more liberal income assessment methodology as authorized by paragraph (2) of  
73 subsection (r) of 42 U.S.C. Section 1396a;

74 (15) The family support division shall not establish a resource eligibility  
75 standard in assessing eligibility for persons under subdivision (12), (13) or (14)  
76 of this subsection. The MO HealthNet division shall define the amount and scope  
77 of benefits which are available to individuals eligible under each of the  
78 subdivisions (12), (13), and (14) of this subsection, in accordance with the

79 requirements of federal law and regulations promulgated thereunder;

80       (16) Notwithstanding any other provisions of law to the contrary,  
81 ambulatory prenatal care shall be made available to pregnant women during a  
82 period of presumptive eligibility pursuant to 42 U.S.C. Section 1396r-1, as  
83 amended;

84       (17) A child born to a woman eligible for and receiving MO HealthNet  
85 benefits under this section on the date of the child's birth shall be deemed to have  
86 applied for MO HealthNet benefits and to have been found eligible for such  
87 assistance under such plan on the date of such birth and to remain eligible for  
88 such assistance for a period of time determined in accordance with applicable  
89 federal and state law and regulations so long as the child is a member of the  
90 woman's household and either the woman remains eligible for such assistance or  
91 for children born on or after January 1, 1991, the woman would remain eligible  
92 for such assistance if she were still pregnant. Upon notification of such child's  
93 birth, the family support division shall assign a MO HealthNet eligibility  
94 identification number to the child so that claims may be submitted and paid  
95 under such child's identification number;

96       (18) Pregnant women and children eligible for MO HealthNet benefits  
97 pursuant to subdivision (12), (13) or (14) of this subsection shall not as a  
98 condition of eligibility for MO HealthNet benefits be required to apply for aid to  
99 families with dependent children. The family support division shall utilize an  
100 application for eligibility for such persons which eliminates information  
101 requirements other than those necessary to apply for MO HealthNet  
102 benefits. The division shall provide such application forms to applicants whose  
103 preliminary income information indicates that they are ineligible for aid to  
104 families with dependent children. Applicants for MO HealthNet benefits under  
105 subdivision (12), (13) or (14) of this subsection shall be informed of the aid to  
106 families with dependent children program and that they are entitled to apply for  
107 such benefits. Any forms utilized by the family support division for assessing  
108 eligibility under this chapter shall be as simple as practicable;

109       (19) Subject to appropriations necessary to recruit and train such staff,  
110 the family support division shall provide one or more full-time, permanent  
111 eligibility specialists to process applications for MO HealthNet benefits at the site  
112 of a health care provider, if the health care provider requests the placement of  
113 such eligibility specialists and reimburses the division for the expenses including  
114 but not limited to salaries, benefits, travel, training, telephone, supplies, and

115 equipment of such eligibility specialists. The division may provide a health care  
116 provider with a part-time or temporary eligibility specialist at the site of a health  
117 care provider if the health care provider requests the placement of such an  
118 eligibility specialist and reimburses the division for the expenses, including but  
119 not limited to the salary, benefits, travel, training, telephone, supplies, and  
120 equipment, of such an eligibility specialist. The division may seek to employ such  
121 eligibility specialists who are otherwise qualified for such positions and who are  
122 current or former welfare participants. The division may consider training such  
123 current or former welfare participants as eligibility specialists for this program;

124 (20) Pregnant women who are eligible for, have applied for and have  
125 received MO HealthNet benefits under subdivision (2), (10), (11) or (12) of this  
126 subsection shall continue to be considered eligible for all pregnancy-related and  
127 postpartum MO HealthNet benefits provided under section 208.152 until the end  
128 of the sixty-day period beginning on the last day of their pregnancy. **Pregnant**  
129 **women receiving mental health treatment for postpartum depression**  
130 **or related mental health conditions within sixty days of giving birth**  
131 **shall, subject to appropriations and any necessary federal approval, be**  
132 **eligible for MO HealthNet benefits for mental health services for the**  
133 **treatment of postpartum depression and related mental health**  
134 **conditions for up to twelve additional months.** Pregnant women receiving  
135 substance abuse treatment within sixty days of giving birth shall, subject to  
136 appropriations and any necessary federal approval, be eligible for MO HealthNet  
137 benefits for substance abuse treatment and mental health services for the  
138 treatment of substance abuse for no more than twelve additional months, as long  
139 as the woman remains adherent with treatment. The department of mental  
140 health and the department of social services shall seek any necessary waivers or  
141 state plan amendments from the Centers for Medicare and Medicaid Services and  
142 shall develop rules relating to treatment plan adherence. No later than fifteen  
143 months after receiving any necessary waiver, the department of mental health  
144 and the department of social services shall report to the house of representatives  
145 budget committee and the senate appropriations committee on the compliance  
146 with federal cost neutrality requirements;

147 (21) Case management services for pregnant women and young children  
148 at risk shall be a covered service. To the greatest extent possible, and in  
149 compliance with federal law and regulations, the department of health and senior  
150 services shall provide case management services to pregnant women by contract

151 or agreement with the department of social services through local health  
152 departments organized under the provisions of chapter 192 or chapter 205 or a  
153 city health department operated under a city charter or a combined city-county  
154 health department or other department of health and senior services designees.  
155 To the greatest extent possible the department of social services and the  
156 department of health and senior services shall mutually coordinate all services  
157 for pregnant women and children with the crippled children's program, the  
158 prevention of intellectual disability and developmental disability program and the  
159 prenatal care program administered by the department of health and senior  
160 services. The department of social services shall by regulation establish the  
161 methodology for reimbursement for case management services provided by the  
162 department of health and senior services. For purposes of this section, the term  
163 "case management" shall mean those activities of local public health personnel  
164 to identify prospective MO HealthNet-eligible high-risk mothers and enroll them  
165 in the state's MO HealthNet program, refer them to local physicians or local  
166 health departments who provide prenatal care under physician protocol and who  
167 participate in the MO HealthNet program for prenatal care and to ensure that  
168 said high-risk mothers receive support from all private and public programs for  
169 which they are eligible and shall not include involvement in any MO HealthNet  
170 prepaid, case-managed programs;

171 (22) By January 1, 1988, the department of social services and the  
172 department of health and senior services shall study all significant aspects of  
173 presumptive eligibility for pregnant women and submit a joint report on the  
174 subject, including projected costs and the time needed for implementation, to the  
175 general assembly. The department of social services, at the direction of the  
176 general assembly, may implement presumptive eligibility by regulation  
177 promulgated pursuant to chapter 207;

178 (23) All participants who would be eligible for aid to families with  
179 dependent children benefits except for the requirements of paragraph (d) of  
180 subdivision (1) of section 208.150;

181 (24) (a) All persons who would be determined to be eligible for old age  
182 assistance benefits under the eligibility standards in effect December 31, 1973,  
183 as authorized by 42 U.S.C. Section 1396a(f), or less restrictive methodologies as  
184 contained in the MO HealthNet state plan as of January 1, 2005; except that, on  
185 or after July 1, 2005, less restrictive income methodologies, as authorized in 42  
186 U.S.C. Section 1396a(r)(2), may be used to change the income limit if authorized

187 by annual appropriation;

188 (b) All persons who would be determined to be eligible for aid to the blind  
189 benefits under the eligibility standards in effect December 31, 1973, as authorized  
190 by 42 U.S.C. Section 1396a(f), or less restrictive methodologies as contained in the  
191 MO HealthNet state plan as of January 1, 2005, except that less restrictive  
192 income methodologies, as authorized in 42 U.S.C. Section 1396a(r)(2), shall be  
193 used to raise the income limit to one hundred percent of the federal poverty level;

194 (c) All persons who would be determined to be eligible for permanent and  
195 total disability benefits under the eligibility standards in effect December 31,  
196 1973, as authorized by 42 U.S.C. Section 1396a(f); or less restrictive  
197 methodologies as contained in the MO HealthNet state plan as of January 1,  
198 2005; except that, on or after July 1, 2005, less restrictive income methodologies,  
199 as authorized in 42 U.S.C. Section 1396a(r)(2), may be used to change the income  
200 limit if authorized by annual appropriations. Eligibility standards for permanent  
201 and total disability benefits shall not be limited by age;

202 (25) Persons who have been diagnosed with breast or cervical cancer and  
203 who are eligible for coverage pursuant to 42 U.S.C. Section  
204 1396a(a)(10)(A)(ii)(XVIII). Such persons shall be eligible during a period of  
205 presumptive eligibility in accordance with 42 U.S.C. Section 1396r-1;

206 (26) Persons who are in foster care under the responsibility of the state  
207 of Missouri on the date such persons attained the age of eighteen years, or at any  
208 time during the thirty-day period preceding their eighteenth birthday, or persons  
209 who received foster care for at least six months in another state, are residing in  
210 Missouri, and are at least eighteen years of age, without regard to income or  
211 assets, if such persons:

212 (a) Are under twenty-six years of age;

213 (b) Are not eligible for coverage under another mandatory coverage group;  
214 and

215 (c) Were covered by Medicaid while they were in foster care.

216 2. Rules and regulations to implement this section shall be promulgated  
217 in accordance with chapter 536. Any rule or portion of a rule, as that term is  
218 defined in section 536.010, that is created under the authority delegated in this  
219 section shall become effective only if it complies with and is subject to all of the  
220 provisions of chapter 536 and, if applicable, section 536.028. This section and  
221 chapter 536 are nonseverable and if any of the powers vested with the general  
222 assembly pursuant to chapter 536 to review, to delay the effective date or to



223 disapprove and annul a rule are subsequently held unconstitutional, then the  
224 grant of rulemaking authority and any rule proposed or adopted after August 28,  
225 2002, shall be invalid and void.

226         3. After December 31, 1973, and before April 1, 1990, any family eligible  
227 for assistance pursuant to 42 U.S.C. Section 601, et seq., as amended, in at least  
228 three of the last six months immediately preceding the month in which such  
229 family became ineligible for such assistance because of increased income from  
230 employment shall, while a member of such family is employed, remain eligible for  
231 MO HealthNet benefits for four calendar months following the month in which  
232 such family would otherwise be determined to be ineligible for such assistance  
233 because of income and resource limitation. After April 1, 1990, any family  
234 receiving aid pursuant to 42 U.S.C. Section 601, et seq., as amended, in at least  
235 three of the six months immediately preceding the month in which such family  
236 becomes ineligible for such aid, because of hours of employment or income from  
237 employment of the caretaker relative, shall remain eligible for MO HealthNet  
238 benefits for six calendar months following the month of such ineligibility as long  
239 as such family includes a child as provided in 42 U.S.C. Section 1396r-6. Each  
240 family which has received such medical assistance during the entire six-month  
241 period described in this section and which meets reporting requirements and  
242 income tests established by the division and continues to include a child as  
243 provided in 42 U.S.C. Section 1396r-6 shall receive MO HealthNet benefits  
244 without fee for an additional six months. The MO HealthNet division may  
245 provide by rule and as authorized by annual appropriation the scope of MO  
246 HealthNet coverage to be granted to such families.

247         4. When any individual has been determined to be eligible for MO  
248 HealthNet benefits, such medical assistance will be made available to him or her  
249 for care and services furnished in or after the third month before the month in  
250 which he made application for such assistance if such individual was, or upon  
251 application would have been, eligible for such assistance at the time such care  
252 and services were furnished; provided, further, that such medical expenses  
253 remain unpaid.

254         5. The department of social services may apply to the federal Department  
255 of Health and Human Services for a MO HealthNet waiver amendment to the  
256 Section 1115 demonstration waiver or for any additional MO HealthNet waivers  
257 necessary not to exceed one million dollars in additional costs to the state, unless  
258 subject to appropriation or directed by statute, but in no event shall such waiver

259 applications or amendments seek to waive the services of a rural health clinic or  
260 a federally qualified health center as defined in 42 U.S.C. Section 1396d(l)(1) and  
261 (2) or the payment requirements for such clinics and centers as provided in 42  
262 U.S.C. Section 1396a(a)(15) and 1396a(bb) unless such waiver application is  
263 approved by the oversight committee created in section 208.955. A request for  
264 such a waiver so submitted shall only become effective by executive order not  
265 sooner than ninety days after the final adjournment of the session of the general  
266 assembly to which it is submitted, unless it is disapproved within sixty days of  
267 its submission to a regular session by a senate or house resolution adopted by a  
268 majority vote of the respective elected members thereof, unless the request for  
269 such a waiver is made subject to appropriation or directed by statute.

270           6. Notwithstanding any other provision of law to the contrary, in any  
271 given fiscal year, any persons made eligible for MO HealthNet benefits under  
272 subdivisions (1) to (22) of subsection 1 of this section shall only be eligible if  
273 annual appropriations are made for such eligibility. This subsection shall not  
274 apply to classes of individuals listed in 42 U.S.C. Section [1396a(a)(10)(A)(I)]  
275 **1396a(a)(10)(A)(i).**

Bill ✓

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